DOCUMENT RESUME

ED 300 919 EA 020 485

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TITLE The Impact Aid Program under Section 3 of Public Law 81-874: Financial Assistance for Local Education Agencies in Areas Affected by Federal Activities. CRS Report for Congress.
INSTITUTION Library of Congress, Washington, D.C. Congressional Research Service.
REPORT NO EPW-88-440
PUB DATE 17 Jun 88
NOTE 28p.
PUB TYPE Reports - Research/Technical (143) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Educational Finance; Elementary Secondary Education; *Federal Aid; *Federal Legislation; *Federal Programs; *Federal State Relationship; Financial Support; *Government School Relationship; *School Districts
IDENTIFIERS *Impact Aid

ABSTRACT

This report discusses Section 3 of Public Law (P.L.) 81-874, one component of the Impact Aid program. Section 3 provides financial assistance through formula grants to local school districts in which a Federal activity or project increases the number of children the local school district must educate. Section 3 is the largest part of the Impact Aid program. The first two parts of this report define Impact Aid and Section 3 of P.L. 81-874. The third part of the report discusses how Section 3 payments to school districts are determined considering three broad conditions: (1) maximum payment levels; (2) payment determination when appropriations are insufficient; and (3) payment determination under current law. Parts 4 and 5 present funding trends for P.L. 81-874 and for Section 3 since fiscal year 1980 and discuss trends in numbers of school districts receiving funds under Section 3. The report concludes with a synopsis of a continuing debate regarding Section 3: whether all Section 3 payments to school districts are justified. Appended is a brief description of P.L. 81-874 and P.L. 81-815. (SI)

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CRS REPORT FOR CONGRESS

THE IMPACT AID PROGRAM UNDER SECTION 3 OF PUBLIC LAW 81-874: FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

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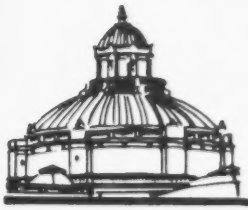

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THE IMPACT AID PROGRAM UNDER SECTION 3 OF PUBLIC LAW 81-874: FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

SUMMARY

The Impact Aid programs operate under companion pieces of legislation: P.L. 81-874 and P.L. 81-815. Section 3 of P.L. 81-874--the subject of this report--provides financial assistance to local school districts in which a Federal activity or project increases the number of children the local school district must educate. Districts use section 3 funds for maintenance and operating expenses and, in general, are not required to use Impact Aid funds for the education of specific students. For the most part, payments are based on the enrollment of two types of students: those whose parents live and work on Federal property (the "3(a)" students) and those whose parents live or work on Federal property or are in the uniformed services (the "3(b)" students).

Under section 3 of P.L. 81-874, the U.S. Department of Education distributed $615,351,000 in FY 1986 to nearly one out of every four school districts in the Nation. These payments accounted for over 90 percent of the total Impact Aid appropriations for FY 1986 and were made on the basis of 2 million "federally connected" children.

Determination of section 3 payments to local school districts depends on both local and Federal decisions and circumstances. Three broad conditions lead to different allocation processes. One process applies if Federal appropriations are sufficient to meet maximum payments. If appropriations fall short of maximum payments, the Act specifies the priorities in which section 3 funds would be distributed. Finally, because appropriations for section 3 payments have recently been far below maximum payments, the appropriations committees have specified procedures for determining payments, which supercede provisions in the Act.

Participation in the section 3 program grew from 1,172 school districts in 1950 to more than 4,000 districts by the end of the 1970s. Between FY 1982 and FY 1984, the number of participating districts declined to about 2,300 because annual appropriations acts changed eligibility requirements for section 3 payments. Since FY 1985, appropriations language has omitted these requirements, thereby restoring the potential eligibility of an estimated 1,700 local school districts. About half of these districts have applied for and received Impact Aid payments.

A central issue of the Impact Aid program has been whether all payments are justified. Most agree that payments for section 3(a) students are justified. There is less agreement on whether districts should be compensated for 3(b) students.

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An earlier version of this report was prepared by Rick Holland.

THE IMPACT AID PROGRAM UNDER SECTION 3 OF PUBLIC LAW 81-874: FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

INTRODUCTION

This report discusses section 3 of P.L. 81-874, one component of the Impact Aid programs. Section 3 provides financial assistance to local school districts in which Federal activity increases the number of children the local school district must educate and is by far the largest part of the Impact Aid programs. 1/ The first two parts of this report present a brief overview of Impact Aid and section 3. In addition, the appendix contains brief summaries of sections of P.L. 81-874 and P.L. 81-815 (the other authorizing legislation for the Impact Aid programs).

The remainder of the report discusses section 3 in more detail. The third part of the report discusses how section 3 payments to school districts are determined. Parts 4 and 5 present funding trends for P.L. 81-874 and for section 3 since FY 1980 and discuss trends in numbers of school districts receiving funds under section 3. The report concludes with a synopsis of a continuing debate regarding section 3: whether all section 3 payments to school districts are justified.

1/ For reports on other aspects of the Impact Aid programs, see Sources of Additional Information.

WHAT IS IMPACT AID?

The Impact Aid programs operate under companion pieces of legislation: P.L. 81-874 and P.L. 81-815. P.L. 81-874 provides financial assistance to local school districts in which the Federal Government owns significant amounts of property, thereby reducing local property tax revenues used for schools (section 2); in which Federal activity results in an increase in the number of students requiring public education (section 3); or in which natural disaster necessitates repair of school facilities (section 7). P.L. 81-815 provides funds to local school districts for the construction and repair of "urgently needed minimal school facilities" for so call "federally connected" children (i.e., Indian children residing on Federal Indian lands and children whose parents live and/or work on Federal property or are members of the uniformed services). See appendix for a description of the various sections under P.L. 81-874 and P.L. 81-815.

During World War II, there were ad hoc appropriations for assisting school districts that were financially burdened as a result of Federal activities or projects such as military bases. The Impact Aid programs were enacted in 1950, to establish official Federal policy for such assistance. The two principal reasons for these Acts were to compensate local school districts for (1) reduced local tax income for school purposes because of Federal ownership of property within a local school district and (2) increased educational costs because of increases in the number of children to be educated by the local school district resulting from a Federal project or activity (H. Rept. 2287, 81st Congress). In subsequent years, the provisions of the programs have been expanded to include additional compensation to districts for certain children residing on Indian lands (1958) as well as on certain federally subsidized, low-rent, public housing properties (1974).

WHAT IS SECTION 3 OF PUBLIC LAW 81-874?

Section 3 of P.L. 81-874 provides financial assistance primarily through formula grants to local school districts in which a Federal activity or project increases the number of children the local school district must educate. In general, payments are based on two types of students: those whose parents live and work on Federal property (the so called "3(a)" students because section 3(a) of P.L. 81-874 provides for this type of student) and those whose parents live or work on Federal property or are in the uniformed services (the "3(b)" students).

Local school districts are eligible to receive section 3 assistance if they enroll at least 400 federally connected children or if at least 3 percent of their total number of students in average daily attendance (ADA) 2/ are federally connected children, whichever is less. Eligible school districts apply for Impact Aid assistance directly to the Division of Impact Aid of the U.S. Department of Education (ED). These districts use section 3 funds for maintenance and operating expenses. In general, they are not required to target Impact Aid funds to the specific education of federally connected students. 3/

Under section 3 of P.L. 81-874, ED distributed $615,351,000 in FY 1986 to approximately 3,100 school districts--almost one out of every four in the Nation. These payments accounted for over 90 percent of the total Impact Aid

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2/ Average daily attendance is a standard measure of school attendance and refers to the average number of pupils actually attending the schools in a district for a given period of time.

3/ In contrast, most other Federal education assistance is categorical and must be used for a specific program purpose. For example, Federal grants under chapter 1 of title 1 of the Elementary and Secondary Education Act must be applied toward the education of disadvantaged children residing in areas with relatively high numbers or proportions of children from poor families.

appropriations for FY 1986 and were made on the basis of 2 million federally connected children out of a total national public school enrollment of approximately 40 million.

HOW ARE SECTION 3 PAYMENTS DETERMINED?

Impact aid payments to local school districts is a multifaceted process, depending on both local and Federal decisions and circumstances. Three broad conditions lead to different payment allocation processes. One process applies if Federal appropriations are sufficient to meet maximum payments. If appropriations fall short of requirements for maximum payments, the Act specifies the priorities in which section 3 funds would be distributed. Finally, because appropriations for section 3 payments have recently been far below maximum payments, the appropriations committees have specified procedures for determining payments, which supercede provisions in the Act.

How Are Maximum Authorized Payments Determined? 4/

Section 3 of P.L. 81-874 authorizes direct payments to local school districts on a per pupil basis for the cost of providing a free public education for children of parents who live and/or work on Federal property or are in the uniformed services. As previously noted, these children are classified under two broad categories: section 3(a) students, children living on Federal property with a parent employed on Federal property or in the uniformed services;

4/ The Augustus F. Hawkins-Robert T. Stafford Education Improvement Amendments of 1988 (P.L. 100-297) modified this aspect of P.L. 81-874. For information on the previous process, see U.S. House. Subcommittee on Elementary, Secondary, and Vocational Education. Federal Assistance for Elementary and Secondary Education: Background Information on Selected Programs Likely To Be Considered for Reauthorization by the 100th Congress. Committee Print. Serial No. 100-A. Washington, U.S. Govt. Print. Off., 1987.

and section 3(b) students, children whose parents live or work on Federal property or are in the uniformed services. In general, local school districts are not required to use their section 3 payments for specific purposes; these payments may be combined with other revenues and used for general maintenance and operation expenses. 5/

A local school district's maximum authorized section 3 payment (which is sometimes referred to as the district's "entitlement") is derived from the number of federally connected students multiplied by a percentage of the school district's local contribution rate (LCR), which the Act defines as the average amount of current educational expenditures derived from local (as opposed to Federal or State) revenue sources. Local school districts have the option of selecting one of three possible methods for determining their local contribution rates. They may choose an LCR equal to one-half the national average per pupil expenditure, or an LCR equal to one-half their State's average per pupil expenditure, or an LCR equal to one-half the average per pupil expenditure of 10 generally comparable school districts in their State. 6/

Maximum section 3 payments are the product of 2 calculations:

(1) The school district's LCR is multiplied by the percentage assigned to the specific type of federally connected student. The authorized payment rate for section 3(a) children is 100 percent of the LCR (125 percent for Indian children). The authorized payment rate for students

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5/ The exception is that some Impact Aid funds must be used for programs designed to meet the special educational needs of federally connected handicapped students. The additional Impact Aid funds--over and above the basic per pupil entitlement received for federally connected handicapped students--must be used by local school districts for the support of programs or projects designed to meet the special educational needs of these students.

6/ School districts in States with relatively low per pupil expenditures generally select an LCR equal to one-half the national average per pupil expenditure; those in States with relative high per pupil expenditures usually choose an LCR equal to one-half their State's average per pupil expenditure or one-half the average per pupil expenditure of 10 generally comparable school districts in their State.

classified as section 3(b) children is 25 percent of the school district's local contribution rate; 7/

(2) The product of this calculation is then multiplied by the total number of federally connected students of this type in average daily attendance in the school district. 8/

Other circumstances and determinations help specify the actual section 3 payment districts receive. The Act provides that all 3(a) payments and payments for "super b" districts 9/ would be equal to the FY 1987 payment, unless the status of the district has changed (e.g., a "super b" district has become a "regular b") or unless appropriations are insufficient for full payment under this provision. In the latter case, amounts would be reduced proportionately.

Moreover, some districts receive additional section 3 payments because of special circumstances and needs. For example, section 3(d)(2)(B) authorizes the Secretary of Education to make additional Impact Aid payments to school districts that have at least 50 percent of their total average daily attendance comprised of federally connected students and that cannot provide educational services equivalent to comparable school districts in the State.

Finally, States' plans to "equalize" educational aid to local school districts can effect Impact Aid payments. Since the 1970s, some States have attempted to equalize educational treatment for all school children in the

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7/ The rate for section 3(a) children is higher because their parents live and work on Federal property, which is not subject to local taxation. The rate for section 3(b) students is less because their parents either live or work on such non-taxable Federal property; thus either their residence or place of employment is subject to local taxation. As a result, less local tax revenue is lost. In addition, the authorized payment rate for military and Indian handicapped children is increased by 50 percent of the LCR because the local school district presumably provides a more expensive school program designed to meet the special educational needs of these students.

8/ In recent years, as will be discussed in a subsequent section, the appropriations committees have established the authorized payment rates.

9/ These are districts for which 3(b) students make up at least 20 percent of the average daily attendance.

State by providing greater amounts of per pupil aid to poorer school districts, and little or no State education aid to relatively wealthy school districts. Impact Aid payments, which ED disburses directly to local school districts, can potentially disrupt these efforts to equalize State educational aid. To ameliorate this problem, a State may consider Impact Aid payments as local revenue and thus reduce State education aid to federally impacted school districts by a specified percentage if the State's equalization program meets the standards (defined by regulation) of the Impact Aid program under P.L. 81-874. 10/ However, before a State may take this action, ED must approve this specific application of its education aid equalization program, and the State's legislature must enact legislation that allows the State education agency to consider Impact Aid payments in calculating State education aid payments to federally impacted school districts. 11/

How Are Payments Determined When Appropriations Are Insufficient?

If appropriations are insufficient for fully funding Impact Aid payments, the Act specifies a payment distribution system for section 2 and section 3 payments based on districts' percentages and types of federally connected

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10/ The Hawkins-Stafford Act (P.L. 100-297) exempts payments for the following section 3 categories from State calculations of equalization amounts: heavily impacted districts [3(d)(2)(B)], handicapped students [3(d)(2)(C)], Indians [3(d)(2)(D)], and unusual geographic factors [3(d)(3)(B)(ii)].

11/ Currently, the following States have authorized plans: Alaska, Arizona, Kansas, Maine, Michigan, New Mexico, and Wisconsin. For further information, see U.S. Library of Congress. Congressional Research Service. Federal Impact Aid and State School Finance Equalization Programs. CRS Report for Congress No. 87-589, by K. Forbis Jordan. Washington, 1987.

students. 12/ The following outlines the priority in which section 2 and section 3 funds are distributed:

1. Districts entitled to section 2 13/ and 3(d)(2)(B) 14/ payments receive 100 percent of their entitlement;

2. Districts receive 50 percent of their entitlement for handicapped students who are federally connected;

3. Of the remaining funds (except for funds needed for section 7 15/), 80 percent are reserved for payments under section 3(a) and 20 percent for section 3(b) payments;

4. Section 3(a) payments are then distributed according to the following table:

Type of District	Percentage of 3(a) Children in District	Percentage of Entitlement Step 1	Step 2	Step 3
"Super a"	20-100%	80%	20%	0%
"Sub-super a"	15-19.9%	60%	15%	25%
"Regular a"	0-14.9%	40%	10%	50%

Each step is applied successively. For example, the first step requires that "super a" districts receive 80 percent of their entitlements from the funds reserved for section 3(a) payments; then "sub-super a's" receive 60 percent of their payments; and finally "regular a's" receive 40 percent of their payments. Next, the percentages for step 2 are applied. If there are

12/ The Hawkins-Stafford Act (P.L. 100-297) modified this aspect of P.L. 81-874. For information on the previous process, see U.S. House. Subcommitee on Elementary, Secondary, and Vocational Education. Federal Assistance for Elementary and Secondary Education: Background Information on Selected Programs Likely To Be Considered for Reauthorization by the 100th Congress. Committee Print. Serial No. 100-A. Washington, U.S. Govt. Print. Off, 1987.

13/ Section 2 provides financial assistance to local school districts in which the Federal Government owns significant amounts of property, thereby reducing local property tax revenues used for schools.

14/ For a discussion of payments under sec. 3(d)(2)(B), see page 6.

15/ Section 7 provides financial assistance to local school districts in which natural disaster necessitates repair of school facilities.

sufficient funds, at the end of step 2, "super a's" would receive 100 percent of their entitlement, "sub-super a's" would receive 75 percent, and "regular a's" would receive 50 percent.

If money is insufficient for full funding of any step, "super a" districts receive 72 percent of the funds available, "sub-super a" districts receive 3 percent of the funds, and "regular a" districts receive 25 percent.

5. Section 3(b) payments are distributed according to the following table:

Type of District	Percentage of 3(a) Children in District	Percentage of Entitlement Step 1	Step 2	Step 3
"Super b"	20-100%	20%	30%	50%
"Regular b"	0-19.9%	10%	5%	85%

Again, these steps are applied successively to funds reserved for 3(b) payments. If money is insufficient for full funding of any step, "super b" districts receive 75 percent of the funds available and "regular b" districts receive 25 percent of the funds.

From FY 1976 through FY 1978, Impact Aid appropriations for school maintenance and operations were adequate to fund 100 percent of maximum authorized payments under steps 1 and 2. Beginning in FY 1979, however, appropriations were no longer sufficient to fund 100 percent of the first 2 tiers. Consequently, the appropriations legislation began to modify the payment requirements in subsequent fiscal years, reducing section 3(b) payments while fully funding most of the section 3(a) payments. The significance of the tier system has declined since FY 1981; while it remains in place, in recent years it has not been used to distribute Impact Aid funds under P.L. 81-874. Instead, the annual appropriations legislation has specified how Impact Aid payments under P.L. 81-874 are to be allocated.

How Are Payments Determined Under Current Law?

Currently, under the Further Continuing Resolution of 1988 (P.L. 100-202), section 3(a) funds are to be allocated at 100 percent of maximum authorized payments for those school districts where section 3(a) students comprise 20 percent or more of the total average daily attendance, as long as the FY 1988 per pupil payments do not exceed 105 percent of the FY 1987 per pupil payments. 16/ Payments to these school districts on behalf of children residing in federally subsidized low-rent housing are to be made at 15 percent of maximum authorized payments.

For those school districts for which section 3(a) students comprise at least 15 percent but less than 20 percent of the total average daily attendance, section 3(a) funds are to be allocated at 75 percent of maximum authorized payments; however, the FY 1988 LCR for these school districts cannot exceed 105 percent of the FY 1987 LCR. Payments to these school districts on behalf of children residing in federally subsidized low-rent housing are to be made at 11.25 percent of maximum authorized payments.

After these first two groups of school districts are paid, the section 3(a) funds remaining are to be distributed on the basis of eligible students among those school districts for which section 3(a) students comprise less than 15 percent of the total average daily attendance. For these school districts, payments are ratably reduced to the aggregate level of remaining available appropriations. Payments made on behalf of children residing in federally subsidized low-rent housing are to be ratably reduced from 15 percent of their maximum authorized payments.

16/ Any districts that are completely comprised of a military base (a "coterminous military district") is exempt from the 5 percent limit on increases in payments, unless the district's "State aid payment is reduced as a result" of such an increase.

Under P.L. 100-202, section 3(b) funds are to be allocated at 60 percent of maximum authorized payments for those school districts for which section 3(b) students comprise 20 percent or more of the total average daily attendance. All section 3(b) payments are to be based upon the FY 1988 LCR, and no cap is placed on the possible increases in LCRs for these school districts. After the first group of section 3(b) districts are paid, the remaining section 3(b) funds are to be ratably reduced from 100 percent of their maximum authorized payments for those school districts for which section 3(b) students comprise less than 20 percent of the total average daily attendance.

WHAT HAVE BEEN THE FUNDING TRENDS FOR SECTION 3?

As table 1 shows, total funding for P.L. 81-874 in the 1980s has fluctuated from a high of $722 million in FY 1980 to a low of approximately $444 million in FY 1982. The FY 1988 appropriation of approximately $685 million represents a 1.4 percent decrease from the FY 1987 level, and a 5.1 percent decrease in unadjusted dollars from the FY 1980 funding level. When adjusted for inflation, the FY 1988 funding level represents a 42.7 percent decrease from the FY 1980 level.

TABLE 1. Appropriations for P.L. 81-874, FY 1980-FY 1988 (dollars in thousands)

Fiscal year a/	Appropriation b/ (in thousands)	Percentage change from FY 1980	Percentage change from FY 1980, adjusted for inflation c/	Budget requests (in thousands)
1980	$722,000	--	--	$495,000
1981	631,750	-12.5	-19.9	450,298
1982	444,022	-38.5	-48.4	337,000
1983	460,200	-36.3	-50.1	283,880
1984	580,300	-19.6	-40.5	455,000
1985	675,000	-6.5	-34.9	506,630
1986	665,975	-7.8	-39.1	543,000
1987	695,000	-3.7	-39.6	543,000
1988	685,498	-5.1	-42.7	543,000
1989 request	567,000	-21.5	-54.5	567,000

a/ Funds for local educational agencies are available for obligation only during the indicated fiscal year.

b/ Does not include payments for section 6 military schools; beginning in FY 1982, these payments were assumed by the Department of Defense.

c/ For a discussion of adjustments for inflation, see U.S. Library of Congress. Congressional Research Service. U.S. Department of Education: Programs Major Trends, Fiscal Years 1980-1989 (appendix A) [by] Paul Irwin, et al. Washington, April 1988.

Payments under section 3 of P.L. 81-874 account for about 95 percent of the total appropriation for P.L. 81-874. Table 2 presents the appropriations for section 3 under P.L. 81-874 over the last 9 years and the Administration's current request.

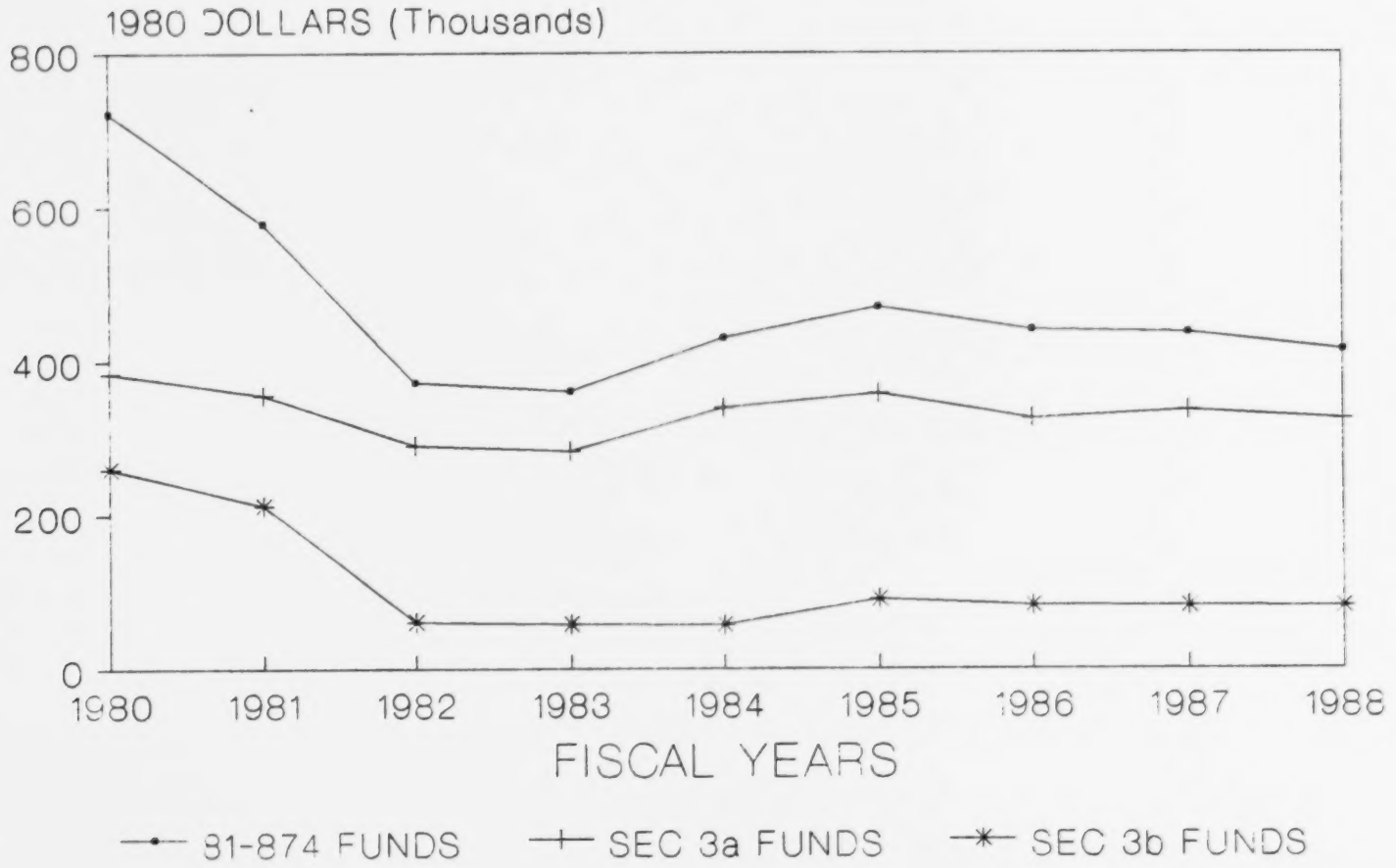
TABLE 2. Appropriations for Section 3 of P.L. 81-874, FY 1980-FY 1988 (dollars in thousands)

Fiscal year	Section 3(a) appropriation	Section 3(b) appropriation	Total section 3 appropriation
1980	$384,000	$260,000	$644,000
1981	389,000	231,000	620,000
1982	345,000	72,600	417,600
1983	361,000	74,000	435,000
1984	457,500	77,500	535,000
1985	513,000	130,000	643,000
1986	490,940	124,410	615,350
1987	533,000	130,000	663,000
1988	536,144	134,036	670,180
1989	547,000	-0-	547,000

Figure 1 plots the trends in funding for P.L. 81-874 and for section 3(a) and section 3(b) adjusted for inflation. Note the significant reduction in Impact Aid funding between FY 1981 and FY 1982, produced by budget cuts resulting from the Omnibus Budget Reconciliation Act of 1981 (OBRA). While OBRA reduced section 3(a) funds, most of the cuts in Impact Aid resulted from reductions in section 3(b) payments. Since 1982, funding for P.L. 81-874 has remained relatively level, even after adjusting for the effects of inflation.

According to data from ED, more than 50 percent of the FY 1987 payments under section 3 were distributed to districts having 20 percent or more of their total average daily attendance comprised of section 3(a) students (the "Super a" districts). Approximately 25 percent of the FY 1987 payments were distributed to "Super b" districts (those having 20 percent or more of their total average daily attendance comprised of section 3(b) students). Section 3(a) payments tend to be distributed to a few school districts with relatively higher percentages of eligible children. Section 3(b) payments tend to be

Figure 1
P.L. 81-874 Funding



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distributed to a larger number of school districts with relatively lower percentages of eligible children.

HOW MANY SCHOOL DISTRICTS RECEIVE SECTION 3 PAYMENTS?

From its enactment in 1950 until the early 1980s, participation in the section 3 program grew steadily. One reason for the growing numbers of school districts receiving Impact Aid payments is the continued high Federal expenditures for national security and domestic development. Another reason has been the liberalization of program eligibility since the inception of the program. Over the 20 years (1953-1973) following the initial 3-year authorization of the Impact Aid programs, Congress revised the original legislation to permit children of parents in the uniformed services and Indian children to be considered as "federally connected." In addition, Congress expanded the definition of "Federal property" to include low-rent public housing. These amendments increased the number of students eligible to be counted for calculating Impact Aid payments.

In its first year of operation, 1,172 school districts received Impact Aid assistance under P.L. 81-874 on behalf of 512,000 federally connected students in average daily attendance, at a total cost of $29.6 million. By FY 1978, 4,368 school districts received Impact Aid assistance under P.L. 81-874, nearly 4 times the number of school districts eligible for Impact Aid during the first year of program operation. The total number of federally connected students in average daily attendance in these school districts was 2.2 million in FY 1978, slightly over 4 times the number of such students in average daily attendance during the first year of program operation. The total appropriations for the maintenance and operations program had risen to $753 million by FY 1978,

approximately 25 times the total appropriations for the program during its first year of operation (without adjustment for changes in price levels).

From FY 1982 through FY 1984, the number of participating LEAs declined to about 2,300 because of the requirement in the annual appropriations acts that an LEA's section 3 payment must be greater than $5,000 if the local educational agency (LEA) is to receive a payment under Impact Aid. 17/ Since FY 1985, appropriations language has omitted the minimum payment provision, thereby restoring the potential eligibility of an estimated 1,700 LEAs. About half of these LEAs have applied for and received Impact Aid payments, resulting in the estimate that about 3,100 LEAs received Impact Aid payments in FY 1986 on behalf of approximately 2 million federally connected children.

According to the most recent information from ED for FY 1987, 2,664 school districts received payments under section 3 of P.L. 81-874. In that year, section 3(a) payments were distributed to 1,425 school districts based upon enrollments of children residing on Indian lands (29.9 percent of all children counted), children whose parents are in the uniformed services (62.6 percent), other children whose parents live and work on Federal property (1.6 percent), and children residing in public, low-rent housing projects (1.9 percent).

Section 3(b) payments in FY 1987 were distributed to 2,503 school districts based upon enrollments of children residing in public, low-rent housing projects (40.3 percent of all children counted), other children of parents who live or work on Federal property (38.7 percent), and children whose parents are in the uniformed services (19.8 percent).

17/ The requirement superseded the provision in the Act that, to be eligible for section 3 payments, a district must enroll at least 400 federally connected children or such children must make up at least 3 percent of the total students in average daily attendance.

ARE SECTION 3(b) PAYMENTS JUSTIFIED?

A central, ongoing debate regarding Impact Aid is whether funding for students whose parents either live or work on Federal property (the section 3(b) students) is justified. While there is wide agreement that Federal payments to local school districts are justified for school children whose parents reside and work on Federal property and children who live on Indian lands (section 3(a) students), the current and previous Administrations, on several occasions, have proposed reducing or eliminating 3(b) payments. Most recently, the FY 1989 ED budget request proposes no funds for such payments.

Some argue that continued 3(b) payments, in a time of general fiscal constraint, provide unnecessary subsidies to local education agencies for children who are only a "marginal" burden, as opposed to 3(a) children who generate no local property tax revenues for school purposes. These opponents of 3(b) payments point out that the parents of 3(b) children live or work on private property that generates local property tax revenues for the school district. Further, they stress that in the case of public, low-rent housing, the Federal Government has provided the community with low-cost housing at its request on land that probably would generate few tax dollars if privately owned, and therefore, should not provide additional subsidies for the children residing in such housing.

In contrast, proponents of 3(b) payments argue that the Federal Government, because its property is exempt from State and local taxation, has a responsibility to pay its share of the costs of educating these federally connected children. Moreover, they stress that some school districts, especially those in close proximity to Federal military installations, enroll large numbers of 3(b) students, many of whom live on property generating minimal tax revenues. In these cases, the local education agencies would be

required to subsidize the educational costs of 3(b) children from local revenues or reduce services if section 3(b) payments were not continued.

SOURCES OF ADDITIONAL INFORMATION

U.S. House. Subcommittee on Elementary, Secondary, and Vocational Education. Federal assistance for elementary and secondary education: Background information on selected programs likely to be considered for reauthorization by the 100th Congress. Washington, U.S. Govt. Print. Off., 1987.
Committee print.
Serial no. 100-A.

U.S. Library of Congress. Congressional Research Service. Education and Public Welfare Division. School assistance in federally affected areas--recent evaluations of the impact aid programs under P.L. 81-874 and P.L. 81-815, by Rick Holland. [Washington] 1985. (Report no. 85-1113 EPW)

---- Section 2 of P.L. 81-874, Federal impact aid to local school districts: Background, funding history, and recent regulations, by Rick Apling. [Washington] 1988. (CRS Report for Congress no. 88-220 EPW)

----- The impact aid programs (P.L. 81-874 and P.L. 81-815): Modifications resulting from P.L. 100-297 (The Hawkins-Stafford Education Amendments of 1988), by Richard N. Apling. [Washington] 1988. (CRS Report for Congress no. 88-399 EPW)

----- Federal impact aid and state school finance equalization programs, [by] K. Forbis Jordan. [Washington] 1987. (CRS Report for Congress no. 87-589 EPW)

APPENDIX: BRIEF DESCRIPTIONS OF P.L. 81-874 AND P.L. 81-815

P.L. 81-874

Under P.L. 81-874 the following sections authorize financial assistance for maintenance and operations to school districts in areas adversely affected by Federal activities:

Section 2 authorizes financial assistance to school districts having a partial loss of tax base (10 percent or more of assessed value) due to the acquisition (since 1938) of local real estate by the Federal Government.

Section 3(a) authorizes payments for children who reside on Federal property, and whose parents work on Federal property or are in the uniformed services.

Section 3(b) authorizes payments for children who reside on Federal property, or whose parents work on Federal property or are in the uniformed services.

Section 3(d)(2)(B) authorizes increased rates of payment for federally connected children to enable a school district (that is otherwise unable) to provide a level of education equivalent to that provided by comparable school districts within its State. Currently, federally connected children counted under sections 3(a) and 3(b) must equal at least 50 percent of the total average daily attendance in order for a district to meet minimum eligibility for 3(d)(2)(B) payments.

Section 3(e) authorizes phase-out entitlements under specified conditions to school districts losing a substantial number of federally connected children due to a decrease or termination of Federal activities in the State in which the school district is located. The Omnibus Budget Reconciliation Act of 1981, as amended by the Education Amendments of 1984 (P.L. 98-511), eliminates funding for section 3(e) payments for fiscal years 1985 through 1988.

Section 4 authorizes financial assistance to school districts for sudden and substantial increases in federally connected attendance resulting from activities carried on by the Federal Government either directly or through a Federal contract. The Omnibus Budget Reconciliation Act of 1981, as amended by the Education Amendments of 1984, eliminates funding for section 4 for FY 1985 through FY 1988.

Section 6 provides payments to Federal agencies or school districts to educate children who reside on Federal property when the State or local education agency is prevented, because of legal or "other reasons," from spending State or local funds for the free public education of federally connected children. The Omnibus Budget Reconciliation Act of 1981 transferred to the Department of Defense the funding authority for section 6.

Section 7 authorizes financial assistance to school districts adversely affected by major disasters, such as tornadoes and floods, regardless of whether they enroll federally connected children. A school district must be located in a presidentially declared disaster area in order to be eligible to apply for major disaster assistance funds. The pinpoint (non-presidentially declared) disaster assistance provision has not been funded in recent years. Section 7 funds provided in the form of grants enable local education agencies to make minor repairs, provide temporary facilities, pay increased operating expenses, and replace instructional materials and equipment.

In addition to these authorizing sections, section 1 contains the declaration of policy for the Impact Aid program under P.L. 81-874, and section 5 specifies application and payment requirements, including those governing the distribution of available funds when appropriations are insufficient for full funding of all entitlements under the Act. Section 5 also contains provisions concerning the treatment of Impact Aid payments under State school finance plans.

Public Law 81-815

Under P.L. 81-815 the following sections authorize financial assistance for school construction and repair to local education agencies in areas adversely affected by Federal activities:

Section 5 authorizes school construction assistance to school districts experiencing an increase since the base year in the number of children of parents who live and work on Federal property or are in the uniformed services, and children of parents who live or work on Federal property or are in the uniformed services; the base year is the school year immediately preceding the first year of a 4-year increase period, directly resulting from U.S. activities.

Section 8 authorizes supplementary funding to a school district that cannot finance the required non-Federal portion of an on-going school construction project or to a school district whose grant-supported school construction project has been adversely affected by a natural disaster.

Section 9 authorizes construction assistance to school districts experiencing increased numbers of federally connected children for a temporary period of time, either directly or through a Federal contractor; such a temporary increase in the number of federally connected children could result from a Federal construction project or a defense contract being located near a school district.

Section 10 directs the Secretary of Education to make arrangements for providing school facilities for children who reside on Federal property where legal or "other reasons" prevent the local education agency from spending State or local funds on the education of federally connected children. For example, the land upon which West Point Military Academy is located was ceded to the Federal Government by New York State; consequently, the surrounding school districts are legally prevented from spending State or local revenues for the education of federally connected children at West Point.

Sections 14(a) and 14(b) authorize construction grants to local education agencies that are comprised mainly of Indian lands or that provide a free public education to children who reside on Indian lands. Section 14(c) authorizes construction assistance to school districts that are comprised mainly of Federal lands and that have a substantial number of pupils residing in federally subsidized public housing projects.

Section 16 authorizes financial assistance to local education agencies in areas suffering major natural disasters, such as tornadoes, floods, etc.

In addition to these authorizing sections, section 1 specifies the purpose of the Impact Aid program under P.L. 81-815 and establishes the authorization levels. Section 2 defines the portion of appropriations available for payments to local education agencies, while section 3 directs the Secretary of Education to establish funding priorities to be followed in approving applications when appropriations are insufficient to fund all qualified applicants. Section 4 imposes limitations on the Federal share of the cost of a school construction project funded under the Act, while sections 6 and 7 specify application and payment requirements, respectively. Section 11 sets forth the conditions under which the Secretary may withhold payments to a local education agency. Section 12 specifies the Secretary's administrative responsibilities for carrying out the provisions of the Act, and section 13 requires other Federal agencies that administer Federal property on which children reside to cooperate with the Secretary in school construction efforts funded under the Act. Section 15

defines key terms under the Act, while section 17 contains a special military base closing provision.